

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





**ORIGINAL**

**76-4284**

**United States Court of Appeals  
For the Second Circuit**

JOSEPH GAMBINO,

*Petitioner,*

-against-

IMMIGRATION AND NATURALIZATION SERVICE,  
*Respondent.*

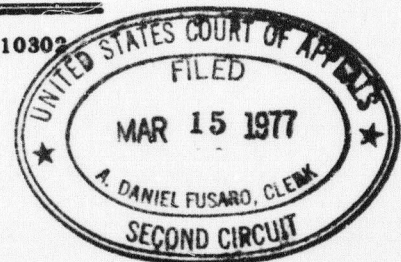
Petition For Review of A Final Order Of  
The Board Of Immigration Appeals

APPENDIX

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# TABLE OF CONTENTS

	PAGE
Immigration and Naturalization Service notice to effect departure.....	A1
Decision of the Board of Immigration Appeals dated December 2, 1976.....	A2
Decision of the Immigration Judge on the application for suspension of deportation, dated March 31, 1976.....	A6
Oral decision of the Immigration Judge dated March 6, 1969.....	A19
Order to Show Cause and Notice of Hearing dated September 25, 1967.....	A25
Report of Investigation dated June 19, 1974.....	A27

A1  
IMMIGRATION AND NATURALIZATION SERVICE NOTICE TO  
EFFECT DEPARTURE

UNITED STATES DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

20 West Broadway  
New York, N.Y. 10007

PLEASE REFER TO THIS FILE NUMBER

A14 909 225 DB/IN

Joseph Gambino  
1566 Dwight Place  
Bronx, New York

Dear Sir:

Please note the below checked action which has been taken in your case.

☐ You have violated the terms of your admission as a nonimmigrant. Consequently, permission previously granted you to remain in the United States is rescinded. You are required to depart from the United States at your own expense on or before \_\_\_\_\_.

☒ In accordance with a decision made in your case you are required to depart from the United States at your own expense on or before January 2, 1977.

☐ Your application for an extension of time in which to depart from the United States has been \_\_\_\_\_ . You are required to depart on or before \_\_\_\_\_.

You must notify this office, Room No. \_\_\_\_\_, on or before \_\_\_\_\_ of the arrangements you have made to effect your departure, including the date, place, and manner.

Failure to depart on or before the specified date may result in the withdrawal of voluntary departure and action being taken to effect your deportation.

If there is a bond outstanding in your case, you are warned that to expedite cancellation of the bond and return of the collateral posted, you must make advance arrangements with this office to have your departure witnessed by an officer of this Service.

USE THE ENCLOSED SELF-ADDRESSED CARD TO NOTIFY THIS OFFICE REGARDING DEPARTURE ARRANGEMENTS. POSTAGE IS NOT REQUIRED. At the time of your departure, do not fail to surrender Form I-94, ARRIVAL-DEPARTURE RECORD, in accordance with instructions on that form.

cc: Joseph P. Marro, Esq.  
Fried, Fragonen & Del Rey, P.C.  
515 Madison Avenue  
New York, New York 10022

Very truly yours,

*Michael F. Riley*  
MICHAEL F. RILEY  
DISTRICT DIRECTOR

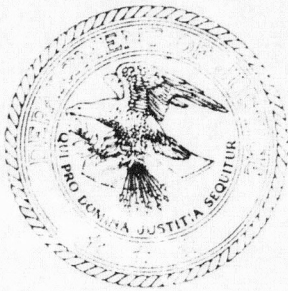
FOR IMMIGRATION AND NATURALIZATION USE ONLY

Departed:

Port \_\_\_\_\_ Date \_\_\_\_\_ ☐ I-94 stamped ☐ I-530 submitted  
To \_\_\_\_\_ Via \_\_\_\_\_ ☐ I-161 prepared ☐ I-156 prepared



DECISION OF THE BOARD OF IMMIGRATION APPEALS DATED  
DECEMBER 2, 1976



United States Department of Justice

Board of Immigration Appeals

Washington, D.C. 20530

DEC 2 - 1976

File: A14 909 225 - New York

In re: GIUSEPPE GAMBINO a/k/a JOSEPH GAMBINO,  
JOSEPH LAMBINO, JOE LAMBINO

IN DEPORTATION PROCEEDINGS

APPEAL

ON BEHALF OF RESPONDENT: Joseph P. Marro, Esquire  
Fried, Fragomen and Del Rey, P.C.  
515 Madison Avenue  
New York, New York 10022

ON BEHALF OF INS SERVICE: Mary Jo Grotenrath  
Appellate Trial Attorney

ORAL ARGUMENT: September 27, 1976

CHARGE:

Order: Section 241(a)(1), I&N Act (8 U.S.C. 1251  
(a)(1)) - excludable at entry -  
stowaway

APPLICATION: Suspension of deportation or, in the  
alternative, voluntary departure

The respondent appeals from a decision of an immigration judge dated March 31, 1976. In that decision, the result of a reopening to consider an application for suspension of deportation under section 244(a)(1) of the Immigration and Nationality Act, the respondent was denied suspension of deportation and was granted voluntary departure. The appeal will be dismissed.

The respondent is a native and citizen of Italy. He entered the United States in 1953 as a stowaway. He is married to a United States citizen and, at the time of the decision below, he had one

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A14 909 225

United States citizen child. Deportability is not an issue in this appeal; the respondent appeals solely from the denial, in the exercise of discretion, of his application for suspension of deportation. The immigration judge found that the respondent met the minimum statutory requirements for that relief.

The denial of the respondent's application for suspension of deportation in the exercise of discretion is proper. We shall assume, for purposes of this appeal, that the respondent meets the minimum statutory requirements for such relief.

The record reveals that the respondent entered the United States as a stowaway. The manner of entry is a factor that will be weighed in assessing whether or not discretion will be favorably exercised. See Matter of C-, 7 I&N Dec. 608 (BIA 1957). In this case, the respondent's entry as a stowaway is a factor that militates against the favorable exercise of discretion.

The record further shows that the respondent procured two social security cards under different names. Counsel for the respondent attacks the immigration judge's finding that this was done as a means to avoid detection by the Service. The record fully supports the immigration judge's finding as to the purpose of the respondent in obtaining the social security card under an assumed name (Tr. p. 22). That is a factor that bears on the exercise of discretion.

The respondent's conviction for falsely claiming to be a United States citizen is another factor to be considered in weighing the favorable exercise of discretion. Cf. Goon Wing Wah v. INS, 386 F.2d 292 (1 Cir. 1967); Matter of E-, 9 I&N Dec. 372 (BIA 1961).

Counsel for the respondent argues that the failure of the respondent to register as an alien as required by law and fulfill the other reporting requirements prior to 1967 (before the Order to Show Cause was issued) should not be a factor against the favorable exercise of discretion. That is a proper factor to consider. See Goon Wing Wah v. INS, supra. That the respondent complied with the registration and reporting requirements subsequently does not erase the fact that during nine years he did not comply.



A14 909 225

Counsel for the respondent presses upon us that the respondent's long residence in the United States, his marriage to a United States citizen, the economic consequences of deportation and his having United States citizen offspring are overriding equities in favor of the favorable exercise of discretion. Long residence is just another factor to be considered. Having a United States citizen spouse and children does not guarantee that discretion will be favorably exercised. Matter of M-P-, 4 I&N Dec. 704 (BIA 1952).

We conclude, on the basis of the record before us, that discretion will not be favorably exercised in favor of the respondent because his entry as a stowaway, his conviction for falsely representing to be a United States citizen, his history of convictions in Italy, his failure to comply with the alien registration and reporting requirements and his obtainment of two social security cards under different names to avoid detection of his illegal presence in the United States counteract the favorable factors that would persuade us to exercise discretion favorably even though these unfavorable factors do not preclude statutory eligibility. See Wong Wing Hang v. INS, 368 F.2d 715 (2 Cir. 1966).

We need not rely, and we are not relying, for our decision on the respondent's silence occasioned by his claim of the Fifth Amendment right against self-incrimination, his family relationship to Carlo Gambino, his association with other individuals or the income tax returns issue. We need not address ourselves to the admissibility of the investigative report on the respondent 1/ since the factors already mentioned are sufficient to dispose of the issues in this appeal. The appeal will be dismissed.

ORDER: The appeal is dismissed.

FURTHER ORDER: Pursuant to the immigration judge's order, the respondent is granted the privilege of voluntary departure, without expense to the Government, with-

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1/ Although no reliance has been placed on the investigative report itself, we have used to arrive at our decision particular exhibits attached to that report.

A5

A14 909 225

in such time and under such conditions as the District Director shall direct; and in the event of failure so to depart, the respondent shall be deported as provided in the immigration judge's order.

Chairman

Board Member Irving A. Appleman abstained from consideration of this case.



A6  
DECISION OF THE IMMIGRATION JUDGE ON THE APPLICATION  
FOR SUSPENSION OF DEPORTATION, DATED MARCH 31, 1976

UNITED STATES DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service

File: A14 909 225 - New York

MAR 5 1976

In the Matter of )  
GIUSEPPE GAMBINO )  
aka )  
JOSEPH GAMBINO )  
aka )  
JOSEPH LAMBINO )  
aka )  
JOE LAMBINO )  
Respondent )

IN DEPORTATION PROCEEDINGS

CHARGE: I&N Act - Section 241(a)(1) - excludable at entry -  
stowaway

APPLICATION: I&N Act - Section 244(a)(1) - suspension of deportation;  
or voluntary departure

IN BEHALF OF RESPONDENT

Fried, Fragomen and Del Ray, Esqs.  
515 Madison Avenue  
New York, N.Y. 10022

By: Joseph P. Marro, of Counsel

IN BEHALF OF SERVICE

John P. Ruggiero, Esq.  
Trial Attorney  
New York, N.Y. 10007

DECISION OF THE IMMIGRATION JUDGE

The respondent is the subject of an Order to Show Cause issued on September 25, 1967 alleging that he is a native and citizen of Italy who entered the United States at Norfolk, Virginia on or about January 1, 1958 as a stowaway, and charging him with being subject to deportation under Section 241(a)(1) of the Immigration and Nationality Act as an alien who was excludable at entry as a stowaway. On

March 6, 1969 he was found deportable on the charge contained in the Order to Show Cause and granted the privilege of voluntary departure, to be effected by May 6, 1969 with an alternate provision for his deportation to Italy upon his failure to depart when and as required. Pursuant to a stipulation entered into between respondent's counsel and the trial attorney a reopened hearing was held on June 17, 1969 and continued from time to time for various reasons until it was finally concluded on November 25, 1975. During the course of the reopened hearing an application was made in behalf of the respondent for suspension of deportation, pursuant to Section 244(a)(1) of the Immigration and Nationality Act, or, in the alternative, for voluntary departure.

Deportability of the respondent is not in issue at this time.

The respondent was married on July 25, 1970 to Rosalie Ann Lentini, a native born citizen of the United States and has one child born on July 13, 1975 in this country. He was previously married to one Prudence Castelli on June 15, 1967, but was divorced from her on January 9, 1970 by decree obtained in Mexico.

To qualify for suspension of deportation under Section 244(a)(1) of the Act an alien must establish, (1) continuous physical presence in the United States for a period of not less than seven years immediately preceding the date of application, (2) good moral character during all



of such period and (3) deportation would result in extreme hardship to the alien or to his spouse, parent or child who is a citizen of the United States or a lawful permanent resident. The extent to which the respondent meets these requirements will now be considered.

The respondent has testified that he entered the United States as a stowaway about January 1958 and has never departed from this country since that date. The record contains photographs of him dated February 1958 taken in the United States in confirmation of his testimony. It is noted that on April 20, 1960 respondent was convicted in Italy of stowing away on a vessel bound for Lisbon and leaving the country without a passport and sentence on this conviction was executed on August 17, 1960 (Exhibit B-10, part of Exhibit 14); further, that respondent was convicted on July 21, 1960 in Palermo of conspiracy to steal wine legally confiscated by the Treasury and was sentenced to one month imprisonment and fined 18,000 lire (Exhibit 14, B-11). While these records suggest that respondent was present in Italy in 1960 they do not conclusively eliminate the possibility of conviction and sentence in absentia. In any event, copies of income tax returns for the years 1966 through 1969 inclusive, marriage certificates, reports of investigation involving the respondent, records in deportation proceedings and affidavits of witnesses as well as other documentary evidence satisfactorily establish that the respondent has been continuously physically present in the United States for at least the preceding seven years.

With respect to the hardship element, the record indicates that his wife and child are dependent upon him for support. He has stated that if he were required to leave the United States he could not earn a living and support his family in Italy, that he could only obtain work there as an unskilled laborer and in addition would suffer a loss on valuable equipment which he owns in this country. Because of his long period of residence in the United States and separation from his wife and child who would be deprived of some support, a finding is warranted that his deportation would result in extreme hardship to himself and his citizen wife and minor child.

The respondent has an extensive criminal record in Italy between 1955 and 1960 involving at least nine convictions for crimes including evasion of taxes, smuggling, resisting arrest, assaulting a traffic patrolman, threatening a public official and reckless driving. (See Exhibit 14)

In the United States the respondent was indicted on June 1, 1972 in the United States District Court, Southern District of New York, of unlawfully wilfully and knowingly falsely representing himself to be a citizen of the United States in the course of an official interview on June 8, 1967 with a Special Agent of the Federal Bureau of Investigation. On the basis of this indictment he was convicted after trial on April 17, 1973 for violation of Title 18, U.S. Code Sec. 911 and sentenced to one year, execution of prison sentence suspended, and placed on probation for a



A10

-5-

A14 909 225

period of one year and fined \$750. The judgment of the District Court was affirmed on appeal by the United States Court of Appeals, Second Circuit, on September 26, 1973.

Although this is the only conviction outstanding against the respondent in this country the record indicates that he has been the subject of inquiry as a principal and witness in connection with possible association with, and involvement with, organized crime and known criminals. A report of the Senate Subcommittee on Organized Crime, reported in the Congressional Record of August 12, 1969, lists one Joseph Gambino as a member of the Carlo Gambino family of La Cosa Nostra in 1969. While acknowledging that he is a cousin of Carlo Gambino and has met him on several occasions in connection with family functions, the respondent has denied that he has been associated with Carlo Gambino in any criminal activities. He has stated that there are many Joseph Gambinos and that he was never a member of the Carlo Gambino 'family' of crime. Although it was stipulated that a certain special agent of the Federal Bureau of Investigation, if called as a witness, would state that the respondent is the Joseph Gambino referred to in this Congressional Record, no corroborative evidence has been produced establishing that the respondent is, in fact, the Joseph Gambino referred to, and no reliance is being placed on this reference in reaching the decision in this case.

Special Agent Edwards of the Federal Bureau of Investigation has testified that he has had the respondent under surveillance since 1961 and has seen



All

-6-

A14 909 225

him in the company of known gamblers and people with police records at the Rochelle Social Club, Bronx, New York. One of the persons with whom the respondent allegedly associated at this Social Club was Ralph Moffo, who has an extensive criminal record including several convictions of gambling offenses. The witness could not state, however, whether any criminal activity involving the respondent was taking place during the period of surveillance. The respondent, while not denying acquaintance with some of the individuals identified as having police records stated that although he has visited the Rochelle Social Club on occasions when he was in the vicinity, he merely played Italian card games there.

It appears that the respondent was the subject of investigation by the District Attorney of Westchester County in connection with irregularities involving private garbage removal contracts and a loan sharking investigation conducted by the Intelligence Unit of the Internal Revenue Service in 1972. Although the respondent has not been convicted of any offenses in connection with these investigations, the record reflects that on November 10, 1969 he appeared before the Westchester County Grand Jury in connection with an investigation into irregularities and infiltration of organized crime into the garbage removal industry and refused to sign a waiver of immunity. Moreover, on June 13, 1972 he appeared before the Grand Jury in the U.S. District Court, Eastern District of New York, in connection with an investigation of the disappearance of one Emanuel



Gambino and refused to answer any questions, invoking the Fifth Amendment. It appears that he likewise invoked the Fifth Amendment on December 15, 1967 in declining to testify before the Grand Jury of the Southern District of New York, investigating the disappearance of one Joseph Calandruccio.

In addition to the foregoing, the respondent has also been the subject of an investigation by the Internal Revenue Service in connection with his failure to report approximately \$4400 of income for 1968 and \$6800 for 1969. These matters were ultimately settled by payment of the deficiency in income taxes due, by agreement with the Internal Revenue Service on or about February 26, 1975.

The respondent has acknowledged that he obtained two social security cards in different names and with different numbers since his arrival in the United States. On January 5, 1960 he applied for one card in the name of Joe Gambino stating that he was born on July 7, 1932 and was residing at 1809 Stillwell Avenue, Brooklyn, New York. On November 14, 1960, he applied for another social security card in the name Joseph Lambino showing his birth on December 24, 1934 and his address as 1733 Gunhill Road, Bronx, New York. The respondent's testimony indicates that he obtained a card in the name Lambino to avoid detection by the Immigration Service because of his entry as a stowaway. He acknowledged that he never lived at the addresses mentioned in his applications for the cards stating that he used the Stillwell Avenue address as a mail address because his cousin, Joe Gambino, lived there and he used the Gunhill Road



address because he worked there. However, he admitted that he was employed at that address under the name Gambino and not Lambino, in which name the application for the social security card was made. He claims that the different birth dates recited on the applications for social security cards were due to a misunderstanding or mistake on the part of the people who filled out the applications for him. This claim may be viewed with some skepticism inasmuch as he listed different dates of birth in other documents of record, including his license to marry Prudence Castelli, executed on June 14, 1967, which shows his birthday as July 20, 1932, and his application for suspension of deportation which gives his birthday as January 20, 1930.

The record reflects that United States income tax returns for the years 1964, 1966, 1967, 1968 and 1969 and New York State income tax returns for the period from 1966 through 1969 inclusive were filed in the name of Joseph Lambino with his social security account number and that United States income tax returns and New York State income tax for the years 1966 through 1969 inclusive were filed under the name Joseph Gambino with his social security number. While a memorandum from the Chief of the Intelligence Division, Manhattan District Internal Revenue Service concludes that the subject in effect split his income, thereby reducing his tax liability by filing returns under two different names, the respondent has consistently maintained that he never filed any tax returns under the name of Joseph Lambino. In this connection it is noted that the returns of Joseph



Lambino list an address, spouse, children and employments. none of which appear to relate to the respondent. A handwriting expert has testified that in his opinion the signatures on the tax returns of Joseph Lambino and Joseph Gambino were not made by the same person. Co-workers of Joseph Lambino at two of the places of employment listed in his tax returns have testified that the respondent is not the Joseph Lambino with whom they were acquainted as fellow employees. In addition, two accountants who represented the respondent in proceedings before the Internal Revenue Service have submitted affidavits stating that they were never informed that there was any discussion concerning an attempt of the respondent to split his income by filing returns in a name other than his own. Although the tax returns in the name of Joseph Lambino refer to the social security number assigned to the respondent when he obtained a card in that name, no independent evidence has been presented to establish that he, in fact, filed the return under the name Joseph Lambino. In view of the evidence presented to the contrary, no finding is made at this time as to any income splitting device perpetrated by the respondent.

Since his arrival in the United States the respondent has been engaged in various occupations, including that of a bulldozer operator, restaurant manager, garbage removal contractor and pizzeria operator. Some of these activities were carried on simultaneously. In connection with the carting enterprises he has organized or been associated with numerous corporations



between 1968 and the present time. According to his testimony, he does not appear to be actively engaged in the carting industry at present, although he is still connected with a company which is inactive. He presently has an interest in a pizza place in Nyack, New York from which he receives \$200 to \$225 net income per week. In addition, he has a 50% interest in a pizzeria in the Bronx in which he invested \$5,000 to \$6,000 about 1971 and upon its sale in 1973 received \$45,000 as his half share of the business in notes, payable \$1,500 per month. He has attributed the marked increase in the value of this business to the work that he has put into it and the purchase of equipment. According to his latest testimony as to his assets, he has stated his savings total about \$14,000 or \$15,000 and his business interests amount to about \$200,000.

The respondent has acknowledged that he has failed to report his address prior to 1967 during January of each year, following his entry into the United States, as required by Section 265 of the Immigration and Nationality Act. His alleged reason for failure to comply with this requirement is that he was never told to submit a report. This excuse is not considered convincing in the light of his admitted use of a social security card obtained in the name Lambino to avoid detection by the Immigration Service listing an address where he did not reside. Respondent has also acknowledged that he failed to register under the Selective Service laws of this country, despite the fact that he was required to do so, because he believed that he was over age.



Even if the respondent be deemed to meet the minimum requirements for eligibility for suspension of deportation under Section 244(a) (1) of the Immigration and Nationality Act, the grant of such relief is not a matter of right. Rather, it is a privilege directed to the favorable exercise of administrative discretion. Yeung Ying Cheung v. INS, 422 F.2nd 43 (3 Cir. 1970); Kam Ng v. Pilliod, 279 F.2nd 297 (7 Cir. 1960) cert. denied 365 U.S. 860. Since the grant of suspension of deportation is discretionary, the respondent has the burden of showing that he is not only eligible for, but worthy of, the exercise of the grant of such relief. Kiss v. Rosenberg, 363 U.S. 405, 80 S. Ct. 1139 (1960); Ng v. Pilliod, supra.

Adverse factors which may properly be considered in deciding an application for suspension of deportation include, but are not limited to, the following: entry as stowaway, Matter of C--, 7 I&N Dec. 608 (BIA, 1957), LoDuca v. Neely, 753 F.2nd, 161 (7 Cir. 1954) failure to comply with the alien registration requirements of annual registration and notification of change of address (Wah v. INS, 386 F.2nd, 292 (1 Cir. 1967); false claim of United States citizenship, Ibid; refusal to answer questions before a Grand Jury (Rassano v. INS, 377 F.2nd 971 (7 Cir. 1967)).

Review of the record in this proceeding reflects a pattern of conduct on the part of the respondent characterized by criminal offenses, and violations of the Immigration laws as well as a failure to cooperate with duly constituted law enforcement bodies in legitimate investigations.



In view of the fact that he entered this country in violation of law as a stowaway; that he obtained a social security card under an alias with the purpose of avoiding detection by Immigration authorities; that he failed to report his address to Immigration authorities until 1967, some nine years after his alleged arrival in this country; that he refused to answer questions before Grand Juries in 1967, 1969 and 1972; and his conviction in 1973 for wilfully making a false claim to United States citizenship to an agent of the Federal Bureau of Investigation in 1967, respondent does not deserve to be granted suspension of deportation which would confer upon him the status of a lawful permanent resident. Nor does his marriage to a United States citizen and the fact that he has a citizen child act as a cloak to shield him from his conduct. Matter of M-P-, 4 I&N Dec. 704 (BIA, 1952). Although his family ties in this country are factors to be considered, they are heavily outweighed by the adverse elements hereinabove referred to, particularly in view of the fact that his marriage was contracted during the pendency of the deportation proceedings, and with the knowledge of the respondent's wife of the existence of these proceedings. Matter of E- 9 I&N Dec. 372.

Insofar as the alternative application for voluntary departure is concerned, for the purpose of this decision the respondent will be found eligible for, and granted, this relief, despite the adverse factors which militate against the grant of suspension of deportation. In this connection it is noted that he was previously granted this privilege in

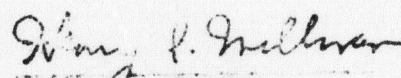


1969 but never effected departure. In view of the fact that he has a citizen wife and child the respondent will be given a final opportunity to leave the United States voluntarily to avoid deportation within such time and under such conditions as the District Director shall direct. (Matter of Young, 13 I&N Dec. 528 (BIA, 1970). Upon his failure to depart when and as required he should be deported. He has failed to designate any country to which he prefers to be deported and deportation will therefore be directed to Italy, the country of his nationality.

ORDER: IT IS ORDERED that the respondent's application for suspension of deportation under Section 244(a)(1) of the Immigration and Nationality Act be denied.

IT IS FURTHER ORDERED that in lieu of an order of deportation the respondent be granted voluntary departure without expense to the government, within such time, and under such conditions, as the District Director shall direct.

IT IS FURTHER ORDERED that if the respondent fails to depart when and as required, the privilege of voluntary departure shall be withdrawn without further notice or proceedings and the following order shall thereupon become immediately effective: respondent shall be deported from the United States to Italy on the charge contained in the Order to Show Cause.

  
Henry F. Millman  
Immigration Judge



A19  
ORAL DECISION OF THE IMMIGRATION JUDGE DATED MARCH 6, 1969

UNITED STATES DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service

File: A-14 909 225, New York, N.Y. March 6, 1969

In the Matter of )

GAMBINO, GIUSEPPE

aka

LAMBINO, JOE )

IN DEPORTATION PROCEEDINGS

Respondent )

CHARGE: I & N Act - Section 241(a)(1) - Excludable at  
entry - stowaway

APPLICATION: Voluntary departure

ON BEHALF OF RESPONDENT:

Elmer Fried, Esq.  
515 Madison Avenue  
New York, New York 10022

ON BEHALF OF SERVICE:

John F. Ruggiero  
New York, New York  
Trial Attorney

ORAL DECISION OF THE SPECIAL INQUIRY OFFICER

The respondent is a 39 year old married male, alien, a native and citizen of Italy, who entered the United States in Norfolk, Virginia on or about January 1, 1958 as a stowaway. Deportability has been conceded and is found to be established as charged in the Order to Show Cause.

The respondent has applied for the privilege of voluntary departure in lieu of deportation. The record reflects that he was carried on June 15, 1967 to a United States

citizen and that he is the beneficiary of a visa petition submitted in his behalf by his wife, which was approved by the Immigration Service on December 13, 1968. He is seeking to adjust his status by obtaining an immigrant visa from an American Counsul abroad.

The respondent has testified that he is the principal stockholder in a garbage removal company and receives \$250 per week. In addition, he stated that he works part-time as a maitre'd earning \$60 per week.

There has been entered into evidence a summary of a criminal record indicating that a person of the respondent's name was sentenced on various occasions in Italy, between March 7, 1955 and July 29, 1960, for various offenses consisting principally of the failure to pay consumer's taxes and resisting and abusing public officials. As to the offenses referred to in this summary sheet, there have been presented three authenticated records. One reflects that the respondent was sentenced on March 2, 1955 in Palermo on a charge of abuse. A second indicates that the respondent was sentenced on February 10, 1956 also in Palermo, on a charge of resisting public officers and aggravated damage to property of officers. Another record discloses that the respondent was sentenced in the police court of Palermo on July 21, 1960 for the offense of evasion of



consumer's tax and stealing confiscated wines. It appears that this last sentence was one that was pronounced in absentia, that is, during the time when the respondent was in the United States.

As the ~~entries~~ contained in the summary sheet have not been corroborated by authenticated conviction records, no conclusion can be properly drawn as to their accuracy or legal effect. Under the circumstances, it is ~~deems~~ unnecessary to consider the entries in this summary sheet any further.

On the present record, the respondent is found to meet the minimum requirements for eligibility for voluntary departure. Although his criminal record, to the extent that it has been established by the evidence in this case is not to be ignored, his testimony indicates that he resorted to transporting wine without payment of tax because he was in desperate straits by reason of the fact that he was unemployed and that his mother was sick. In any event, these offenses occurred over ten years ago. No evidence has been presented of any criminal record in the United States since the respondent's arrival here. Although he has acknowledged



obtaining a social security card in a name other than his own because of fear of apprehension by the Immigration and Naturalization Service, this is not considered sufficient to bar the relief of voluntary departure to him. In view of his marriage to a United States citizen and the absence of any criminal record against the respondent in this country, he should be given an opportunity to leave the United States voluntarily. Since he is in the process of attempting to obtain an immigrant visa, he will be given a period of two months from today within which to effect his departure subject to any extension that may be granted by the District Director. However, in the event of his failure to depart when and as required, he should be deported. He has declined to designate any country to which he prefers to be deported. Under the circumstances, deportation will be directed to Italy, the country of his nationality. However, counsel has requested an opportunity to apply for Suspension of Deportation in the future if it is proposed to deport the respondent pursuant to an Order of Deportation. By stipulation between counsel and the Trial Attorney, it has been agreed that the respondent may have a period of 30 days from the date of service of a proposal to deport him within which to reopen the proceedings upon notice in order to file an application for Suspension of Deportation;

and that in the event such notice is not served within the 30-day period, then the deportation order may be executed. It has further been stipulated between counsel and the Trial Attorney that the Government may have the proceedings reopened on notice for any reason deemed necessary in the future. Accordingly, the following order will now be entered:

ORDER: In lieu of an order of deportation, respondent shall be granted voluntary departure without expense to the Government on or before May 6, 1969 or any extension beyond such date as may be granted by the District Director and under such conditions as the District Director shall direct.


IT IS FURTHER ORDERED that if the respondent fails to depart when and as required, the privilege of voluntary departure shall be withdrawn without further notice or proceedings and the following order shall thereupon become immediately effective. The respondent shall be deported from the United States to Italy on the charge contained in the order to show cause.

IT IS FURTHER ORDERED that the respondent is granted 30 days from the date of service of the notice of proposal to deport him within which to serve notice to reopen the proceedings to file an application for Suspension of Deportation and



said proceedings shall be deemed reopened upon the service of such notice. In the event such notice is not served prior to the expiration of the 30-day period, then the order deporting the respondent from the United States to Italy shall have full force and effect.

IT IS FURTHER ORDERED that the Government may request the reopening of the proceedings on notice for whatever reason is deemed necessary.

  
HENRY I. MILLMAN  
Special Inquiry Officer



A25  
ORDER TO SHOW CAUSE AND NOTICE OF HEARING DATED 9-25-67  
UNITED STATES DEPARTMENT OF JUSTICE  
Immigration and Naturalization Service

ORDER TO SHOW CAUSE and NOTICE OF HEARING

In Deportation Proceedings under Section 242 of the Immigration and Nationality Act

UNITED STATES OF AMERICA

In the Matter of

GIUSEPPE, GIUSEPPE

GIUSEPPE, J. e

Respondent.

To: Giuseppe Carbone  
(name)

File No. 10919 2X  
(A14 212 1)

100 Bay View Avenue, Brooklyn, New York  
Address (number, street, city, state, and ZIP code)

UPON inquiry conducted by the Immigration and Naturalization Service, it is alleged that:

1. You are not a citizen or national of the United States.
2. You are a native of Italy  
and a citizen of Italy
3. You entered the United States at Port of Entry, New York on  
or about January 1, 1967  
(date)
4. You then entered as a Stowaway.

AND on the basis of the foregoing allegations, it is charged that you are subject to deportation pursuant to the following provision(s) of law:

*FILED*  
*CH*  
*JAN 27 1967*

Section 241(a)(1) of the Immigration and Nationality Act, in that, at time of entry you were within one or more of the classes of aliens excludable by the law existing at the time of such entry, to wit, aliens who are stowaways, under Section 212(a)(18) of the Act.

WHEREFORE, YOU ARE ORDERED to appear for hearing before a Special Inquiry Officer of the Immigration and Naturalization Service of the United States Department of Justice at 20 West Broadway, New York, New York 10th Floor on November 28, 1967 at 8:45 a m, and show cause why you should not be deported from the United States on the charge(s) set forth above.

Dated: September 25, 1967

Form I-221  
(Rev 3-30-67)

IMMIGRATION AND NATURALIZATION SERVICE

*SE [Signature]*  
(signature and title of issuing officer)  
DEPUTY DISTRICT DIRECTOR  
NEW YORK DISTRICT  
(City and State)

(over)

BEST COPY AVAILABLE



## NOTICE TO RESPONDENT

ANY STATEMENT YOU MAKE MAY BE USED AGAINST YOU IN DEPORTATION PROCEEDINGS  
 THE COPY OF THIS ORDER SERVED UPON YOU IS EVIDENCE OF YOUR ALIEN REGISTRATION  
 WHILE YOU ARE UNDER DEPORTATION PROCEEDINGS. THE LAW REQUIRES THAT IT BE  
 CARRIED WITH YOU AT ALL TIMES

If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Immigration and Naturalization Service. You should bring with you any affidavits or other documents which you desire to have considered in connection with your case. If any document is in a foreign language, you should bring the original and certified translation thereof. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

When you appear you may, if you wish, admit that the allegations contained in the Order to Show Cause are true and that you are deportable from the United States on the charges set forth therein. Such admission may constitute a waiver of any further hearing as to your deportability. If you do not admit that the allegations and charges are true, you will be given reasonable opportunity to present evidence on your own behalf, to examine the Government's evidence, and to cross-examine any witnesses presented by the Government.

You may apply at the hearing for voluntary departure in lieu of deportation. Moreover, if you appear to be eligible to acquire lawful permanent resident status the special inquiry office will explain this to you at the hearing and give you an opportunity to apply.

You will be asked during the hearing to select a country to which you choose to be deported in the event that your deportation is required by law. The special inquiry officer will also notify you concerning any other country or countries to which your deportation may be directed pursuant to law; and upon receipt of this information, you will have an opportunity to apply during the hearing for temporary withholding of deportation if you believe you would be subject to persecution in any such country on account of race, religion, or political opinion.

Failure to attend the hearing at the time and place designated hereon may result in your arrest and detention by the Immigration and Naturalization Service without further notice, or in a determination being made by the special inquiry officer in your absence.

## REQUEST FOR PROMPT HEARING

To expedite determination of my case, I request an immediate hearing, and waive any right I may have to more extended notice.

\_\_\_\_\_  
 (signature of respondent)

Before

\_\_\_\_\_  
 (signature and title of witnessing officer)

\_\_\_\_\_  
 (date)

## CERTIFICATE OF SERVICE

This order and notice were served by me on 9/25/67 in the following manner:

By personal service (initials) Anthony Thompson language

Interpreter

J. J. Kelly  
 (signature and title of employee or officer)



A27  
REPORT OF INVESTIGATION DATED JUNE 19, 1974

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE

REPORT OF INVESTIGATION

<b>TITLE</b>  GAMBINO, Giuseppe aka GAMBINO, Joseph LAMBINO, Joseph		<b>FILE NUMBER</b>  A14 909 225
<b>REPORT MADE AT</b>  New York	<b>DATE</b>  June 19, 1974	<b>BY</b>  <i>Robert F. Honar</i> 6/19/74 Robert F. Honar, INVESTIGATOR

SYNOPSIS

SUBJECT is a 44-year-old male, native and citizen of Palermo, Italy. He claims to have last entered the United States on or about January 1, 1953 at Norfolk, Virginia on an unknown vessel as a stowaway. This has not been verified. He is married to ROSALIE ANN (nee LENTINI) GAMBINO, United States citizen, and resides at 1565 Dwight Place, Bronx, New York. There are no children.

SUBJECT has a lengthy criminal record in Italy consisting of twelve arrests and eight convictions, mostly involving avoidance of business tax, consumer fraud, and assaults on Police authorities relating thereto.

He has been the Subject of Grand Jury investigations in Westchester County, New York, probing organized crime influence in the carting business in that County; in the Southern District of New York concerning the same matters and the disappearance of one JOSEPH CALANDRUCCIO; in the Eastern District of New York concerning the disappearance of EMMANUEL GAMBINO, nephew of CARLO GAMBINO. In Westchester County, SUBJECT refused to cooperate in the Grand Jury investigation and refused to sign a waiver of immunity; in the Eastern and Southern Districts of New York SUBJECT claimed his constitutional privilege in refusing to testify under the provisions of the 5th Amendment.

SUBJECT has also been under investigation by the Internal Revenue Service for income tax fraud and shylocking, and by the Federal Bureau of Investigation for involvement in interstate gambling activities.

SUBJECT was indicted June 1, 1974 and convicted in the United States Court for the Southern District of New York on February 2, 1973 of violation of Title 18 USC 911 (false claim to United States citizenship). He was sentenced to one year imprisonment, execution of sentence suspended, one year probation, and fined \$750. United States Court for the 2nd Circuit, New York, denied his appeal on September 26, 1973, and the Supreme Court denied Certiorari on May 13, 1974.



DETAILS

SUBJECT was born on January 20, 1930, at Palermo, Italy. Birth Certificate on file and identified as Exhibit "A," with only known entry into the United States occurring on or about January 1, 1958, as a stow-away aboard an unknown vessel at an unknown port in Virginia. This information has not been verified and was furnished by SUBJECT at the time of his voluntary surrender to this Service on September 22, 1967 at New York City. An Order to Show Cause and a Warrant of Arrest issued on September 25, 1967 and SUBJECT is currently at liberty in \$2500 bond. A Warrant of Deportation issued on May 22, 1968.

At the time of his surrender to INS, SUBJECT was married to PRUDENCE CASTELLI, United States citizen, 179 Bay 41st Street, Brooklyn, New York. They were married in a civil ceremony on June 15, 1967 at Brooklyn, New York and on June 20, 1967, the spouse submitted an I-130 Visa Petition in his behalf. However, this Petition, which had been approved, was recalled from the Consulate in Montreal, Canada as being no longer valid by reason of SUBJECT'S divorce from PRUDENCE CASTELLI by the 2nd Civil Court, District of Bravos, Chihuahua, Mexico on January 9, 1970. Subsequent investigation by this Service revealed that SUBJECT and his then spouse were not living together, and there was reasonable doubt as to whether or not this was a valid marriage.

SUBJECT has an extensive criminal record in Italy, consisting of twelve known arrests and eight convictions for crimes involving business and tax fraud, and assault. Certified copies of these arrests and convictions have been obtained from the Italian authorities through the Officer-in-Charge, Palermo, Italy. They are as follows:

Exhibit B, - Italian Penal Certificate relating to Giuseppe GAMBINO.

Exhibit B-1 - 3/7/55; Pretura Unificata Di Palermo. Criminal Proceedings for violating Article 110, Paragraph 21 of the Criminal Code 55, Consolidation Act for Conspiracy to Evade Payment of Taxes. Found Guilty and fined 180,000 Lire and Court costs.

Exhibit B-2 - 6/24/55; Pretura Di Partinico. Criminal Proceedings for violating Article 106 of Regulations of the Finance Bureau for failure to pay excise taxes on wine. Found guilty and fined 21,500 Lire plus Court costs.

New York, N.Y. - 6/9/74  
A14 909 225



Exhibit B-3 - 1/27/56; Pretura Di Partinico. Violations of Article 70 of the traffic laws. Found guilty and sentenced under Articles 506 and 507 of the Code of Criminal Procedure and fined 2,000 Lire and Court costs.

Exhibit B-4 - 2/10/56; Civil and Criminal Tribunal of Palermo. Found guilty of violation of Article 55, Consolidated Act, Smuggling; Art. 87, Consolidated Act; Smuggling; Articles 110 and 337, Criminal Code, Resisting arrest; Art. 302, Criminal Code, inflicting wounds in connection with resistance, Article 56-582, attempting to inflict wounds; Article 635, Criminal Code, aggravated damage in connection with above. Sentenced to 1 year and 6 months imprisonment plus payment of Court costs.

Exhibit B-5 - 2/5/57; Court of Appeals, Palermo. Re: arrest of 10/16/54 and Conditional Parole imposed 12/23/54; Notes default of GIUSEPPE GAMBINO and reaffirms sentence of 2/6/55.

Exhibit B-6 - 5/12/57, Pretura Unificata Palermo. Found guilty of violation of Criminal Code Articles 113 and 590, inflicting personal injuries by reckless driving and sentenced to a fine of 30,000 Lire and compensation to be paid to the plaintiff.

Exhibit B-7 - 10/18/57; Civil and Criminal Tribunal of Palermo. Found guilty of violation of Articles 110, 337, and 339 of the Criminal Code for using violence against a traffic motorcycle Patrolman. Sentenced to 8 months imprisonment and fined 37,200 lire plus Court costs.

Exhibit B-8 - 5/17/58; Court of Appeals, Palermo. Re: arrest of 3/2/55 for which GAMBINO was sentenced to six months and 15 days imprisonment for insulting and threatening a public official. The conviction and sentence was reaffirmed.

Exhibit B-9 - 10/25/58; Court of Appeals, Palermo. Re: sentence of 1/30/57 for which GAMBINO was found guilty of Articles 113 and 590 and fined 30,000 Lire was reaffirmed.

Exhibit B-10 - 4/20/60 Pretura Unificata Di Palermo. Stowing away aboard the S/S Atreo bound for Lisbon and leaving the country without a passport. Found guilty and sentenced to 8 months

New York, N.Y. - 6/19/74  
AL4 979 225



Exhibit B-10 (cont'd.) imprisonment and 6,000 Lire fine. Sentence executed 8/17/60.

(INVESTIGATOR'S NOTE: SUBJECT claims entry into the United States on or about January 1, 1958. The conviction in Italy reflects that the sentence was executed in that country on August 17, 1960. There is nothing in the record to indicate that the sentence was "in absentia."

Exhibit B-11 - 7/21/60; Pretura Unificata Di Palermo. Found guilty of violation of Articles 110 and 334 of the Criminal Code for having conspired to steal wine legally confiscated by the Treasury. As a repeated offender within five years under Article 99 of the Criminal Code, GAMBINO was sentenced to one month imprisonment and fined 18,000 Lire.

While residing in the United States it is known that SUBJECT has used the alias JOSEPH LAMBINO. On November 14, 1960 he applied for a Social Security Account Number under this alias and was furnished Social Security #121 34 0982. At this time SUBJECT was also the recipient of Social Security Number 096 34 0363, for which he had applied on January 2, 1960 under his true identity. See Exhibit C and Exhibit C-1. It is a matter of record that SUBJECT utilized the alias JOSEPH LAMBINO and Social Security Account number in filing U.S. Income Tax Returns for the years 1964, 1966, 1967, 1968 and 1969. See Exhibits D, D-1, D-2, D-3, and D-4. During these same years, with the exception of 1964, SUBJECT also filed New York State Income Tax Returns under the alias JOSEPH LAMBINO. See Exhibits E, E-1, E-2, and E-3. Conversely, it is a matter of record that SUBJECT additionally filed U.S. Income Tax Returns for the years, 1966, 1967, 1968, 1969, under his true identity, JOSEPH GAMBINO, Social Security #096 34 0363, thus illegally splitting and falsifying his annual income. See Exhibits F, F-1, F-2, F-3, in addition, and corresponding to the years 1966, 1967, 1968, 1969 in which SUBJECT filed New York State Returns as LAMBINO, he also filed under his true identity JOSEPH GAMBINO, Social Security #096 34 0363. See Exhibits G, G-1, G-2, G-3.

This matter was referred to the United States Internal Revenue Service for investigation and they reported that SUBJECT failed to report approximately \$4,400 for 1968 and \$5,800 for 1969, on either return. Due to problems involving the refusal of the SUBJECT and his attorney to answer any questions, and the placing of the LAMBINO refund checks in the SUBJECT'S possession, the United States Internal Revenue Service did not submit this matter for criminal prosecution.

SUBJECT was employed as a Bulldozer operator by JAMES PLASTINA, Garbage Removal, Mt. Vernon, New York from about 1964 to December 1968. On De-

New York, N.Y. - 6/19/74  
A14 909 225



On December 13, 1968 the SUBJECT bought out Mr. PLASTINA'S interest in the company, acquired his trucks and contract with the City of Mt. Vernon, New York for \$30,000; \$1500 down and monthly installment notes in the amount of \$1500. SUBJECT subsequently lost the Garbage removal contract in 1969 as the result of an investigation by the Westchester County District Attorney into the irregularities of letting contracts, and the infiltration of Organized Crime into the operation. In connection with this investigation, SUBJECT was ordered to appear before the Westchester County Grand Jury on November 10, 1969, and at that time refused to sign a waiver of immunity to testify before that body. See Exhibit H.

In connection with the Grand Jury testimony it is to be noted that SUBJECT was subpoenaed to appear before two additional Grand Juries; one in the Eastern District of New York on June 13, 1972, investigating the disappearance of one EMMANUEL GAMBINO, a nephew of CARLO GAMBINO, and in the Southern District of New York on December 15, 1967, investigating the disappearance of one JOSEPH CALANDRUCCIO. On both occasions SUBJECT invoked his constitutional right under the Fifth Amendment and refused to testify. (See Exhibit I.)

Among SUBJECT'S known hangouts is the Rochelle Social Club, located at 687 Crescent Avenue, Bronx, New York. This premises is the scene of suspected gambling operations and as such has been under surveillance and investigation by the New York Office of the Federal Bureau of Investigation. On March 1, 1972, Special Agent Stephen Edwards, Federal Bureau of Investigation, took a series of photographs from outside the premises and the adjacent area which are presented at this time to show the SUBJECT in the company of known gamblers PHILIP LO SCALZO, NYCPD B#161241, FBI #390918; RALPH MOFFA, NYCPD B#208651, FBI #3061510; and DAVID (PAPA DAVE) AMODEO, alleged CAPO in the GAMBINO family, no known criminal record. These photos are attached hereto and identified as Exhibits J through J-18. The notes of the surveillance by Special Agent Edwards are attached as Exhibit K. Attached for identification purposes are the New York City Police Department Criminal Records, photographs of PHILIP LO SCALZO, Exhibit L; and RALPH MOFFA, Exhibit M.

In addition to the aforementioned investigations by the District Attorney Westchester County, regarding SUBJECT'S involvement in the illegal letting of contracts and organized crime involvement; the investigation by a Grand Jury in the Eastern District of New York regarding the disappearance of EMMANUEL GAMBINO, nephew of CARLO GAMBINO (later found mur-



dered in New Jersey); Federal Bureau of Investigation and Grand Jury in the Southern District of New York regarding organized crime infiltration of garbage industry in Westchester County and disappearance of Joseph COLANDRUCIO; U.S. Internal Revenue Service, regarding income tax fraud: the SUBJECT was also a principal in a loan sharking investigation conducted by the Intelligence Unit of the Internal Revenue Service in 1972. In this instance an affidavit was obtained from one JOSEPH SCAPPATONE, Sr., 2105 Tomlinson Avenue, Bronx, New York who stated that he was forced to pay to JOSEPH GAMBINO the sum of \$5200 in \$200 weekly payments for 26 weeks in payment of a \$3500 loan incurred by Mr. Scappatone's son JOSEPH, on threat of bodily harm both to him and his son. These payments were made to GAMBINO at the Play Pen Lounge, 2244 Tillotson Avenue Bronx, New York in 1969 while the SUBJECT was employed thereat as Manager of the premises. This admission and affidavit was later repudiated by Mr. SCAPPATONE, through fear for his safety, according to Internal Revenue Service. This affidavit is in Internal Revenue Service records but has not been located as yet. Efforts are being made to procure same.

On October 10, 1972, Mr. LEO POLLACK, Chief, Trade Waste Division, Department of Consumer Affairs, 80 Lafayette Street, New York City, appeared at this office and reported that SUBJECT was an applicant for a New York City Carting License for private garbage removal. Mr. POLLACK made available to this Service a copy of a prior report, dated February 2, 1971, in which one CARLO CONTI and his wife PATRICIA CONTI, DBA Yellow Bird Carting, Inc., were denied a license. The SUBJECT is mentioned in this report as an associate of Mr. CONTI in connection with the Columbia Leasing Corp., an outgrowth of GAMBINO'S prior takeover of the JAMES PLASTINE business. See Exhibit -N.

In the instant application, SUBJECT presented to the Department of Consumer Affairs, a contract between himself and PETER DARMINO and ANTHONY DARMINO, DBA Terminal Sanitation, 1913 Hunt Avenue, Bronx, New York. See Exhibit O. In the original application, SUBJECT was shown as the sole owner and officer of the Corporation. However, in an amended application dated September 21, 1972, SUBJECT was shown as President of the Corporation, with 50% of the stock and his wife ROSALIE ANN GAMBINO as Secretary Treasurer, with 50% of the stock. Mr. POLLACK subsequently advised that SUBJECT'S application for a New York City Carting License was denied.

On June 1, 1972 SUBJECT was indicted in the United States Court for the Southern District of New York for violation of Title 18 USC, Sec. 911 (False claim to United States Citizenship) See Exhibit P. SUBJECT entered a plea of not guilty to the indictment and was tried and found guilty in the Southern District of New York on February 2, 1973. See Exhibit Q. On April 17, 1973 SUBJECT was sentenced to one year imprisonment.

New York, N.Y. - 6/19/74



ment, execution of sentence suspended, placed on probation for a period of one year, and fined \$750. SUBJECT appealed this conviction to the United States Court of Appeals for the Second Circuit, New York, and on September 26, 1973, the Court in a decision from the bench, affirmed the SUBJECT'S conviction. See Exhibit R. In a final and additional ruling on May 13, 1974, United States Supreme Court denied certiorari in the case of JOSEPH GAMBINO.

SUBJECT continued to reside at 1566 Dwight Place, Bronx, New York with his wife ROCHALIE ANN (nee LENTINI) GAMBINO. He terminated his employment at the Play Pen Lounge, 2241 Tillotson Avenue, Bronx, New York in 1972, but continues to operate JOSEPH'S Pizzeria at 3019 Westchester Avenue, Bronx, New York.

#### LIST OF EXHIBITS

- Exhibit "A" - Copy of SUBJECT'S Birth Certificate showing birth on January 20, 1930 at Palermo, Italy.
- Exhibit "B" - Italian Penal Certificate relating to GIUSEPPE GAMBINO.
- Exhibit "B-1" - Italian Criminal Record dated March 7, 1955.
- Exhibit "B-2" - Italian Criminal Record dated June 24, 1955.
- Exhibit "B-3" - Italian Criminal Record dated January 27, 1956.
- Exhibit "B-4" - Italian Criminal Record dated February 10, 1956.
- Exhibit "B-5" - Italian Criminal Record dated February 5, 1957.
- Exhibit "B-6" - Italian Criminal Record dated May 18, 1957.
- Exhibit "B-7" - Italian Criminal Record dated October 18, 1957.
- Exhibit "B-8" - Italian Criminal Record dated May 17, 1958.
- Exhibit "B-9" - Italian Criminal Record dated October 25, 1958.
- Exhibit "B-10" - Italian Criminal Record dated April 20, 1960.
- Exhibit "B-11" - Italian Criminal Record dated July 21, 1960.
- Exhibit "C" - Social Security Application by the SUBJECT dated November 14, 1960.
- Exhibit "C-1" - Social Security Application by the SUBJECT dated January 8, 1960.

New York, N.Y. - 6/19/74  
A14 909 225



LIST OF EXHIBITS (cont'd.)

Exhibit "D" - Federal Income Tax Return by the SUBJECT for the year 1964.

Exhibit "D-1- Federal Income Tax Return by the SUBJECT for the year 1966.

Exhibit "D-2- Federal Income Tax Return by the SUBJECT for the year 1967.

Exhibit "D-3- Federal Income Tax Return by the SUBJECT for the year 1968.

Exhibit "D-4- Federal Income Tax Return by the SUBJECT for the year 1969.

(INVESTIGATOR'S NOTE: All of these returns were filed by the SUBJECT under the alias JOSEPH LAMBINO.)

Exhibit "E" - New York State Income Tax Return filed by the SUBJECT under the alias JOSEPH LAMBINO for the year 1966.

Exhibit "E-1 New York State Income Tax Return filed by the SUBJECT under the alias JOSEPH LAMBINO for the year 1967.

Exhibit "E-2 New York State Income Tax Return filed by the SUBJECT under the alias JOSEPH LAMBINO for the year 1968.

Exhibit "E-3 New York State Income Tax Return filed by the SUBJECT under the alias JOSEPH LAMBINO for the year 1969.

Exhibit "F" - Federal Income Tax Return filed by the SUBJECT for the year 1966.

Exhibit "F-1- Federal Income Tax Return filed by the SUBJECT for the year 1967.

Exhibit "F-2 Federal Income Tax Return filed by the SUBJECT for the year 1968.

Exhibit "F-3 Federal Income Tax Return filed by the SUBJECT for the year 1969.

(INVESTIGATOR'S NOTE: All of these returns were filed by the SUBJECT under the alias JOSEPH LAMBINO.)

New York, N.Y. - 6/19/74  
A14 909 225



- Exhibit "G" - New York State Income Tax Return filed by the SUBJECT for the year 1966.
- Exhibit "G-1" - New York State Income Tax Return filed by the SUBJECT for the year 1967.
- Exhibit "G-2" - New York State Income Tax Return filed by the SUBJECT for the year 1968.
- Exhibit "G-3" - New York State Income Tax Return filed by the SUBJECT for the year 1969.
- Exhibit "H" - Copy of Grand Jury Minutes from Westchester County New York dated November 10, 1969 in which SUBJECT refused to sign a waiver of immunity.
- Exhibit "I" - Copy of the Minutes of the United States Grand Jury for the Eastern District of New York dated June 13, 1972 in which SUBJECT claimed the 5th Amendment and refused to testify.
- Exhibit "J" - Are a series of photos taken by an FBI Agent, and identified by him, showing the SUBJECT outside the ROCHELLE SOCIAL CLUB with other Organized Crime figures.
- Exhibit "J-18"
- Exhibit "K" - Notes on the aforementioned surveillance and photographs by Special Agent Stephen Edwards, Federal Bureau of Investigation.
- Exhibit "L" - Criminal Record New York City Police Department - Criminal Record and Photograph of PHILIP LO SCALZO.
- Exhibit "M" - New York City Police Department Criminal Record and Photograph of RALPH MAFFA.
- Exhibit "N" - Copy of report from the New York City Consumer Affairs Department relating to a License Application made by CARLO CONTI and his wife PATRICIA CONTI.
- Exhibit "O" - Copy of a contract regarding the sale of a garbage removal business between the SUBJECT and PETER DARMINO and ANTHONY DARMINO doing business as Terminal Sanitation.
- Exhibit "P" - Certified copy of Indictment of SUBJECT for violation of Title 18 USC, Section 911.

New York, N.Y. - 6/19/74  
A14 909 225



Exhibit "Q" - Certified copy of conviction of SUBJECT relating to  
aforementioned indictment.

Exhibit "R" - Certified copy of affirmation of conviction by the  
Second Circuit Court of Appeals regarding the SUBJECT'S  
Appeal of his conviction.

WITNESSES

Special Agent Stephen Edwards, Federal Bureau of Investigation. He  
can testify to the veracity of the photographs presented showing  
SUBJECT in company with known gamblers.

New York, N.Y. - 6/19/74  
A14 909 225

FRIED, FRAGOMEN

AFFIDAVIT OF PERSONAL SERVICE

STATE OF NEW YORK  
COUNTY OF RICHMOND ss.:

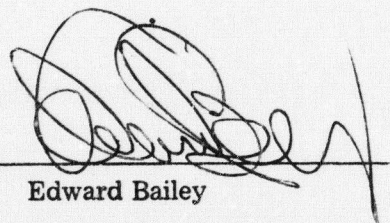
EDWARD BAILEY being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 15 day of March, 1977 at No. 1 St. Andrews Pl., NYC

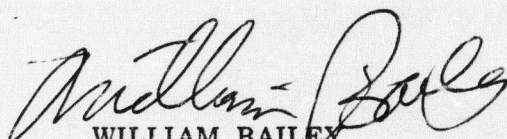
deponent served the within ~~Petition~~ *appendix*  
upon U.S. Atty., So. Dist. of nY

U.S. Atto  
1 St. And  
NYC

the Respondent herein, by delivering 3 true copy(ies) thereof to him personally. Deponent knew the person so served to be the person mentioned and described in said papers as the Respondent therein.

Sworn to before me this  
15 day of March 1977

  
Edward Bailey

  
WILLIAM BAILEY  
Notary Public, State of New York  
No. 43-0132945  
Qualified in Richmond County  
Commission Expires March 30, 1978